

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN DAVE LEWIS**, on February 5, 2003 at 3:20 P.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Dave Lewis, Chairman (R)
Rep. Rosalie (Rosie) Buzzas, Vice Chairman (D)
Rep. Edith Clark, Vice Chairman (R)
Rep. John Brueggeman (R)
Rep. Tim Callahan (D)
Rep. Stanley (Stan) Fisher (R)
Rep. Eve Franklin (D)
Rep. Dick Haines (R)
Rep. Donald L. Hedges (R)
Rep. Joey Jayne (D)
Rep. Carol C. Juneau (D)
Rep. Dave Kasten (R)
Rep. Christine Kaufmann (D)
Rep. Monica Lindeen (D)
Rep. John Musgrove (D)
Rep. Jeff Pattison (R)
Rep. Rick Ripley (R)
Rep. John Sinrud (R)
Rep. John Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Jon Moe, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 279, HB 425, HB 464, 1/31/2003
Executive Action: HB 109, HB 125, HB 231, HB 397, HB 160,

HEARING ON HB 425

Sponsor: REP. DAVE GALLIK, HD 52, Helena

Opening Statement by Sponsor:

REP. GALLIK said HB 425 is a request from a constituent concerned about the budget situation. The bill would request that this Legislature put together a commission of twelve people who would look at information they feel is applicable and important and make some recommendations to the Legislature and state government. The people would be unpaid except for their expenses, which would be about \$20,000.

Proponents' Testimony:

Brian Cameron, representing the **League of Women Voters of Montana**, said for the last century the League has committed itself to promoting voter education, voter involvement and voter enfranchising in public decision making. He believes HB 425 accomplishes all of these things, providing a critical link between, in this case, the legislature, the Governor's office and our citizenship. This bill offers a wealth of private expertise and enhances public accountability by opening the doors somewhat to that level of public involvement.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. FISHER asked, "How would a group like this gain enough knowledge of the various agencies to make meaningful recommendations?" **REP. GALLIK** referred **REP. FISHER** to Section 5 which gives the group the ability to request any needed information. It also brings some new "eyes" to the program. There would have to be an educational process and that would be through the ability to have specific information in order to make a determination or decision. **REP. FISHER** suggested the group serve under the Office of Budget and Program Planning department, only from the standpoint that they would be able to get the input that Department has. **REP. GALLIK** said if that would be more effective, then he would go along with it. He likes the concept of private sector people who have been successful and could come up with new programs and positions.

REP. RIPLEY asked **REP. GALLIK** if he thought the panel could be nonpartisan if appointed by the Minority, the Majority and the Governor. **REP. GALLIK** said he would hope so because it would be in the interim and there wouldn't be the partisan pressures of the session that are going on now, but he doesn't know who else would appoint the panel. He would hope that the leadership of both parties would recognize what this is meant to do.

REP. PATTISON asked **REP. GALLIK** if he was familiar with the Legislative Audit and Finance Committees. **REP. GALLIK** answered, "Yes." **REP. PATTISON** said he believes their functions are already addressing, more than accurately, what this bill is trying to do. "What would this panel do that would be over and above, or in a more enhanced form or method, than what they are doing already?" **REP. GALLIK** said the goal behind this, in his constituent's eyes, was to bring together this group of people that would be able to actually look from a fresh prospective and not be under the "guns" of those types of panels. **REP. PATTISON** said, "With the term limits, new people coming on and redistricting coming up, there will be new people again sitting on the Audit and Finance Committees so wouldn't that be "fresh" enough? These people coming in would be elected by the people and there wouldn't be other extra expenses or added FTE." **REP. GALLIK** said the fiscal note is no longer applicable, given the fact they are taking it from Revenue.

With regard to the term limits, from the perspective of some of the constituents, and in particular the gentleman who requested this bill, people are "recycled."

REP. MUSGROVE said this bill presupposes that private industry is always more efficient than general government. He asked **REP. GALLIK** if he has evidence to support that supposition. **REP. GALLIK** said he does not think it presupposes that theory but that it will be more sufficient. He supposes that it will just be another set of "eyes," another input as to how potentially they could make suggestions as to what the Legislature does. Their suggestions or recommendations are not going to become law.

REP. LINDEEN referred to **REP. RIPLEY'S** question concerning appointments by the majority or minority leaders which could lead to political assignments. Had the sponsor considered using the Consensus Council as a vehicle to make those appointments? **REP. GALLIK** said that it would be all right for anybody to make the appointments as long as the people on that Commission were those that have had some success in private industry and a fresh look at the way the Legislature does business to merely make some suggestions. Anything that could be done to de-politicize it would be acceptable.

CHAIRMAN LEWIS said both Governor Schwinden and Governor Racicot put together groups of private sector people to come in and look at state government and make recommendations. They were fairly successful because there were recommendations made by those groups that were adopted by the Legislature. The one big difference was that they raised their own money.

Closing by Sponsor:

REP. GALLIK said he feels it would be a very good idea if they raised their own money. They probably will come up with some pretty good ideas and may be able to save some money and will also listen to the constituency.

HEARING ON HB 464

Sponsor: **REP. GARY FORRESTER, HD 16, Lockwood**

Opening Statement by Sponsor:

REP. FORRESTER said Lockwood Water and Sewer District was formed a few years ago to take care of a problem that has increased steadily over the years. Lockwood is an unincorporated community. The bill asks for \$5 million from the General Fund to help Lockwood out. Lockwood is faced with the same conditions imposed by the federal government and the state government on the Clean Water Act. They are faced with a real problem. They have tried everything, even revenue bonds. He is not expecting the full amount, but does expect some of it. He referred to Exhibits 1 and 2.

EXHIBIT (aph25a01)

EXHIBIT (aph25a02)

Proponents' Testimony:

Bill Kennedy, Yellowstone County Commissioner, referred to Exhibit 2. He has worked with the Lockwood Water and Sewer Board for four or five years. This project has been supported by the community and Montana's Congressional delegation. There are about 5,600 households in the Lockwood area without any type of sewer system at all. They do have septic systems. This area is in need of a sewer system and they have looked at every way possible. They were able to qualify for a Community Development Block Grant to fix up some of the homes in Lockwood a few years ago because of low-income. The median income family is about \$34,678. They have made a request for federal money as they need about \$11 to \$12 million to actually make this project affordable. The total amount is about \$28 million. What they

are asking for is enough to make this project affordable so they can pass a bond issue.

Al Littler, Billings, said this community will generate enough income to support itself but it needs that "incubator" approach.

Bob Ross, Lockwood resident, said the community has been able to take care of itself and has never had to come to the state before for any kind of request. Lockwood is an affordable neighborhood for people with low incomes. He requested the committee support the bill.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 29.5}

Opponents' Testimony: None

Informational Testimony:

Jim Edgcomb, Manager, Treasure State Endowment Program (TSEP), said he would be available for questions.

Questions from Committee Members and Responses:

REP. BUZZAS asked Mr. Edgcomb if this project is on the list of Treasure State Endowment Program requests. **Mr. Edgcomb** said this project was awarded \$500,000 during the last legislature so he has been waiting for them to get their funding together in order to provide those funds to them.

REP. BUZZAS asked Commissioner Kennedy for an explanation. **Mr. Kennedy** said they have exhausted every avenue that they looked at. To make it affordable for the households is to acquire a cash grant of about \$5 million. The rest of the financing will come locally as they bond it out. He referred to Exhibit 2, Page 3.

REP. WITT asked the sponsor if he had thought about doing a county-wide levy. **REP. FORRESTER** said he is not sure they can do a county-wide levy. The Sewer District has entered into a unique agreement state-wide with the city of Billings. **Gordon Morris, Director, Montana Association of Counties**, said you cannot take a general county-wide tax and utilize it for special purposes. The only county-wide taxes you have authority from the county's perspective, is the General Fund. The General Fund has specifically designated purposes. A statute says you cannot use one fund for the benefit of another fund. If you have a special district, you can't go outside that special district and bring money into it from any other source for the benefit of that smaller fund.

REP. HAINES asked the sponsor if Lockwood has applied to the State Waste-Water Revolving Fund. **REP. FORRESTER** said they applied but were turned down, then received the TSEP grant of \$500,000 but they were down on the list for the Waste-Water Revolving Fund. **Mr. Edcomb** said when funding for this project was being discussed, the Environmental Protection Agency (EPA) grant excludes them from being able to use State Revolving Fund (SRF) funds to match those particular funds. They certainly could use some of the SRF funds for a portion of the project but in order to match those federal funds, they cannot use SRF.

Closing by Sponsor:

REP. FORRESTER closed the Hearing on HB 464.

HEARING ON HB 279

Sponsor: **REP. ARLENE BECKER, HD 18, Billings**

Opening Statement by Sponsor:

REP. BECKER said this bill seeks to clarify who is responsible for paying the costs of pre-commitment of a respondent during a mental health commitment procedure. Pre-commitment costs are the costs associated with detaining, examining and treating a person while they wait for commitment procedures to be completed during the legal process. The change is in Section 2(a). Under current law the county shall pay all expenses. This bill would clarify another order of payment. When a person is waiting in a pre-commitment facility, that facility should bill either the respondent, the respondent's insurance carrier if they have one, a public assistance program, then after exhausting all possible money sources, the county of residence.

Proponents' Testimony:

Al Littler, Billings said during the last election, the citizens of Yellowstone County passed a significant mill levy increase for their City-County Health Department. They are committed not only to roads and streets, water and sewer infrastructures, but also committed to the other things involved that make up the community, such as health infrastructure. Putting everything on the county, without first of all going to insurance and other methods of financing, is unfair to the residents. The bill adds some fairness to the taxpayer.

Bob Ross, Director, South Central Montana Mental Health Center, Billings, said as an outpatient provider he has no monetary

interest in this bill. He does think it is an important bill because he is one of the providers that would start the involuntary commitment process. At the time he determines someone needs to be held for involuntary commitment, he files a petition at the County Attorney's office. That person is generally picked up by law enforcement, taken to the local psychiatry facility for detention for X number of days so they can follow through with the involuntary commitment process. It would be his physicians and practitioners that would trigger this entire process, which the county has no control over. Under current statute the county is required to pay for these pre-commitment processes, which means, until that person is adjudicated by the court to an involuntary commitment to Montana State Hospital, the county would pay all of that.

Bill Kennedy, Yellowstone County Commissioner and Montana Association of Counties, said County Commissioners across the state have looked at the pre-commitment costs and those are the costs the county assumes before the person goes into Warm Springs Hospital and the state takes over those costs. They have tried to determine how those costs might be spread out and picked up by people that do carry insurance. They also looked at the three-to-one match with the Medicaid money and are able to bring some of those federal dollars back into the community. The county, however, will be the payer of last resort.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 29.5}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. FISHER asked Mr. Ross how long it takes to have people committed to the Montana State Hospital in Warm Springs. **Mr. Ross** said this bill represents the pre-commitment process, which is from the time the police pick that person up until they have the court appearance. There are two evaluations done by two different professionals and the person goes back to court to determine whether or not the court would adjudicate them to the Montana State Hospital in Warm Springs. From the time of the police pick-up until the final court hearing that adjudicates that person to the Montana State Hospital in Warm Springs, may take as long as ten days. That is why it is not unusual for an involuntary commitment to cost \$10,000. After that the involuntary commitment usually is for a maximum of ninety days. **REP. FISHER** asked how would additional cases be handled. **Mr. Ross** said this bill would create additional cases. The State

Hospital is full. This particular piece of legislation would not change that one way or the other. All this does is relate to how payment is made or how the provider bills for payment. Once the court adjudicates that individual to Montana State Hospital, the state pays the bill.

REP. JAYNE referred to Exhibit 3, Page 2, the Medicaid eligibility and asked Jon Moe, Legislative Staffer, for an explanation. **Mr. Moe** said there is a three-to-one match in the fiscal note.

EXHIBIT (aph25a03)

REP. JAYNE asked Mr. Ross if the language in this bill might infringe on the rights of the individual. **Mr. Ross** views it as two separate issues. Once a person is picked up and put in this detention status, the court will automatically appoint counsel for that individual who is obligated to represent them and make sure they get independent, outside evaluations.

In response to a question from **REP. JAYNE** concerning insurance benefits, **Mr. Ross** said the insurance benefits that will pay for mental health coverage generally have an inpatient benefit. That doesn't say pre-commitment/post-commitment regardless of hospitalization. It simply is a hospital benefit plan. The issue is they don't pay during that hospital stay because the law requires the counties to pay for it, so the provider has no incentive to bill other payers because they can just go to the county.

REP. FRANKLIN referred Lois Steinbeck, Legislative Analyst, to Exhibit 3 for an explanation. **Ms. Steinbeck** said the issue on whether it is going to cost General Fund or not is related to two key points and referred to Exhibit 3, Page 2.

CHAIRMAN LEWIS said any time they put a deep pocket into process, in this case Medicaid, it seems like maybe demand will expand because all of a sudden there is somebody to bill that will pay. He asked Mr. Ross if that is a possibility. **Mr. Ross** said the involuntary commitment process is triggered by a petition that he files at the County Attorney's office. It is a legal action based on his staff's professional assessment that that person is not safe. The question would presume that the number of involuntary commitments would go up simply to get Medicaid to pay and he doesn't believe that because it is a legal issue in terms of the involuntary. When the state has someone on involuntary status at Montana State Hospital, they do have language that allows them to bill all the other third party providers before they actually pay the bill so this bill would be consistent with that policy as well.

Closing by Sponsor:

REP. BECKER closed the Hearing on HB 279.

EXECUTIVE ACTION ON 109

Motion: REP. LINDEEN moved that HB 109 DO PASS.

Motion: REP. FISHER moved that HB 109 BE AMENDED to place the maximum at \$20,000.

Discussion:

CHAIRMAN LEWIS said the appropriation will go into HB 2 so we would not have to amend this bill.

Substitute Motion/Vote: REP. KASTEN made a substitute motion that HB 109 BE TABLED. Substitute motion carried 13-6 with REPS. BUZZAS, CALLAHAN, JAYNE, JUNEAU, KAUFMANN and LINDEEN voting no on a roll call vote.

EXECUTIVE ACTION ON HB 125

Motion: REP. BRUEGGEMAN moved that HB 125 DO PASS.

Discussion:

CHAIRMAN LEWIS said the long-range impact beginning FY 2006, General Fund revenue would be reduced by \$610,000 annually.

Substitute Motion/Vote: REP. LINDEEN made a substitute motion that HB 125 BE TABLED. Substitute motion carried 16-3 with REPS. FRANKLIN, SINRUD and WITT voting no on a roll call vote.

EXECUTIVE ACTION ON HB 231

Motion: REP. CLARK moved that HB 231 DO PASS.

Discussion:

Jon Moe, Legislative Staffer explained the amendment Exhibit 4. EXHIBIT (aph25a04)

Motion/Vote: REP. HEDGES moved that HB 231 BE AMENDED. Motion carried 18-1 with REP. JAYNE voting no on a voice vote.

Motion: REP. HEDGES moved that HB 231 DO PASS AS AMENDED.

Discussion:

REP. JUNEAU asked for clarification on the fiscal note. CHAIRMAN LEWIS referred to the pink fiscal note stating the long range impact, FY 2006, is \$2.5 million annually. That is the only difference.

Substitute Motion/Vote: REP. BUZZAS made a substitute motion that HB 231 BE TABLED. Substitute motion carried 13-6 with REPS. FRANKLIN, KASTEN, PATTISON, RIPLEY, SINRUD and WITT voting no on a roll call vote.

EXECUTIVE ACTION ON HB 397

Motion: REP. CLARK moved that HB 397 DO PASS. REP. CLARK withdrew this motion after following discussion.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 29.5}

Motion: REP. CLARK moved that HB 397 BE AMENDED. REP. CLARK withdrew this motion after discussion.

Discussion:

Jon Moe, Legislative Staffer, explained the amendment.
EXHIBIT (aph25a05)

REPS. FISHER, LEWIS, JUNEAU, MUSGROVE, BUZZAS, HAINES, HEDGES, and FRANKLIN discussed funding sources.

Motion/Vote: REP. KASTEN moved that HB 397 BE TABLED. Motion carried 12-7 with REPS. BUZZAS, CALLAHAN, FRANKLIN, HAINES, KAUFMANN, LINDEEN and MUSGROVE voting no on a roll call vote.

EXECUTIVE ACTION ON HB 160

Motion: REP. HAINES moved that HB 160 DO PASS.

Discussion:

CHAIRMAN LEWIS, REPS. JUNEAU, BUZZAS, KASTEN, HAINES, WITT, and Mr. Moe discussed and further clarified questions and comments.

Vote: Motion carried 15-4 with REPS. KASTEN, PATTISON, RIPLEY and SINRUD voting no on a voice vote. REP. JAYNE had originally voted no and asked the Chairman for permission to change her vote to yes. Since it did not affect the outcome of the vote the Chairman agreed to change the vote.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 21.3}

ADJOURNMENT

Adjournment: 5:10 P.M.

REP. DAVE LEWIS, Chairman

MARY LOU SCHMITZ, Secretary

DL/MS

EXHIBIT (aph25aad)